

United States District Court
Middle District of Florida
Jacksonville Division

DELORES GIST,

Plaintiff,

v.

NO. 3:19-cv-753-J-32PDB

WAL-MART STORES EAST, LP, ETC,

Defendants.

Order

Novolex Holdings, LLC, requests an order requiring Delores Gist to submit to two examinations: (1) one with Robert J. Friedman, M.D., on July 28, 2020, and (2) one with Michael Shahnasarian, Ph.D., on July 24, 2020.¹ [Doc. 50](#). Novolex explains the examinations will be conducted remotely by videoconference because of the novel coronavirus pandemic. [Doc. 50 at 2, 3](#). Ms. Gist has no opposition. [Doc. 50 at 4](#).

Novolex explains the examinations are necessary because Ms. Gist's physical condition is in controversy (a foot injury allegedly leading to complex regional pain syndrome), she is seeking damages for future medical treatment, and she has provided the defendants with a report from a lifecare expert. [Doc. 50 at 2](#); *see also* [Doc. 3](#), ¶¶ 23, 24, 30 (alleging injuries). Novolex explains Dr. Friedman is a board-certified neurologist and pain-management physician and has extensive experience in complex regional pain syndrome. [Doc. 50 at 2](#); *see also* [Doc. 50-1](#) (Dr. Friedman's

¹As observed in an earlier order, [Doc. 42 at 1](#), there are three defendants in the case: Novolex; Wal-Mart Stores East, LP; and Bunzl Distribution USA, Inc. Novolex is the party named in the first paragraph as the movant. *See* [Doc. 50](#). The motion later uses the term "Defendants" (plural) as seeking relief, and the same attorneys represent both Novolex and Bunzl. The motion states that both Ms. Gist and Wal-Mart agree to the relief in the motion. [Doc. 50 at 3](#). Bunzl presumably also agrees to or moves for the relief.

resume). Novolex explains Dr. Friedman’s examination will involve determining the accuracy of the “complex regional pain syndrome” diagnosis, Ms. Gist’s level of physical impairment, and whether any preexisting injuries affect her physical abilities.² Doc. 50 at 2.

Novolex explains Dr. Shahnasarian is a certified lifecare planner with extensive experience and a Ph.D. in counseling psychology and “human systems practicing.” Doc. 50 at 3; *see also* Doc. 50-2 (Dr. Shahnasarian’s resume). Novolex explains Dr. Shahnasarian will interview Ms. Gist about future medical treatment for her foot. Doc. 50 at 3.

Under Federal Rule of Civil Procedure 35, a court may “order a party whose mental or physical condition ... is in controversy to submit to a physical or mental examination by a suitably licensed or certified examiner.” Fed. R. Civ. P. 35(a)(1). The order “may be made only on motion for good cause and on notice to all parties and the person to be examined” and “must specify the time, place, manner, conditions, and scope of the examination, as well as the person or persons who will perform it.” Fed. R. Civ. P. 35(a)(2).

Novolex has established good cause, and the Rule 35 requirements have been satisfied. The Court **grants** the motion, Doc. 50, and **directs** Ms. Gist to appear for the examinations as described in this order.

Ordered in Jacksonville, Florida, on July 23, 2020.



PATRICIA D. BARKSDALE
United States Magistrate Judge

²The description of the examination is the same as the one discussed in an earlier granted motion for an examination with a different doctor, Claudio Vincenty, M.D. Docs. 41, 42. Whether the examination with Dr. Friedman is a substitute for the examination with Dr. Vincenty is unclear. In any event, Ms. Gist has no opposition.

c: Counsel of Record